UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,088	12/05/2000	Charles D. Wolfson	STL9-2000-0066US1/1804P	9367

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EXAMINER
ADAMS, CHARLES D

ART UNIT	PAPER NUMBER
2164	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/731,088	WOLFSON, CHARLES D.
	Examiner	Art Unit
	CHARLES D. ADAMS	2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _18 February 2008_.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-18_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-18_ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks

1.   In response to communications filed on 18 February 2008, claims 1, 7, and 13-14

are amended. Claims 1-18 are pending in the application.

2.   This rejection is non-final due to the addition of new grounds of rejection.

Claim Objections

3.   Claims 6, 12, and 18 are objected to because of the following informalities:

The claims are limited to a "publish/subscribe-based messaging system".

However, it is unclear if "publish/subscribe" means publish AND subscribe or publish

OR subscribe.   Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 1, 7, and 13 rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention.

Each of the independent claims recite the limitation that the message system is separate from the database system. Such a feature was never set forth in the original disclosure and is new matter. The instant specification reads, on page 6, lines 16-19, "It should be noted that the message queue (when persistence is desired) and database would usually exist in the long-term storage device 14 (or other suitable computer readable medium), but these items have been shown separately in FIG. 1 for functional clarity." Thus, as presented in the original specification, there is no indication as to how the two systems are 'separate', considering that they are stored in the same place in memory.

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7.   Claims 1 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 13 are rejected because the claims state "providing one or more chosen functions from a messaging system in a database system", and "wherein the messaging system is separate from the database system".

It is unclear how the messaging system can be both "in a database system", and "separate from the database system".

Claim Rejections - 35 USC § 101

8.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9.   Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is

inoperable.

        Claims 1, 7, and 13 each define the message system as being separate from the

database system. In such a configuration, the invention is inoperable since the

database system would have no access or communication with the message system,

thus disabling any possible messaging functionality in the database system. Claims 2-6,

8-12, and 14-18 depend on claims 1, 7, and 13 respectively.

Claim Rejections - 35 USC § 102

10.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11.   Claims 1, 6-7, 12-13, and 18 are rejected under 35 U.S.C. 102(e) as being

anticipated by Cusson et al. (US Patent 6,497,641).

        As to claim 1, Cusson et al. teaches:

(a) providing one or more chosen functions from a messaging system in a database system (see 11:10-16); and

(b) utilizing one or more chosen functions from the database system within structured query language statements to access the messaging system from the database system, wherein the messaging system is separate from the database system (see Figure 4 and 11:10-16. Message queue is separate from the source database).

As to claims 6, 12, and 18, Cusson et al. teaches further comprising providing one or more chosen functions from a publish/subscribe-based messaging system (see 11:10-16. Updates may be published to a database).

As to claim 7, Cusson et al. teaches:

at least one computer processing device (see Figure 2 and 5:26-41)

a messaging program means installed on the at least one computer processing device for performing messaging functionality (see 11:10-16); and

a database program means installed on the at least one computer processing device, the database program means utilizing one or more chosen functions of the messaging program means via structured query language statements to integrate the messaging system functionality within database functionality of the database program means, wherein the messaging program means is separate from the database program means (see Figure 4 and 11:10-16. Message queue is separate from the source database).

As to claim 13, <u>Cusson et al</u>. teaches:

(a) providing one or more chosen functions from a messaging system in a

database system (see 11:10-16); and

(b) utilizing one or more chosen functions from the database system within

structured query language statements to access the messaging system from the

database system, wherein the messaging system is separate from the database system

(see Figure 4 and 11:10-16. Message queue is separate from the source database).

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

13.   Claims 2-5, 8-11, and 14-17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over <u>Cusson et al</u>. (US Patent 6,497,641) over <u>Chandra et al</u>. (US Patent

6,058,389).

As to claims 2, 8, and 14, <u>Chandra et al</u>. teaches wherein step (a) further

comprising (al) adding the one or more chosen functions as user-defined functions in

the database system (see <u>Chandra et al</u>. 13:1-9 and 16:25-32).

As to claims 3, 9, and 15, <u>Chandra et al</u>. teaches wherein the user-defined functions further comprise functions to place a message on a queue of the messaging system, retrieve at least one message from the queue, non-destructively retrieve all messages from the queue, and read at least one message from the queue (see 12:60-67, 16:18-30, and Figure 9A, steps 900-903).

As to claims 4, 10, and 16, <u>Chandra et al</u>. teaches wherein the user-defined functions further specify a service endpoint (see 13:1-9).

As to claim 5 and 17, <u>Chandra et al</u>. teaches wherein the user-defined functions further specify a destination and delivery policy (see 13:1-9 and 16:25-31).

As to claim 11, <u>Chandra et al</u>. teaches wherein the user-defined functions further specify a delivery policy (see 13:1-9 and 16:25-31).

Response to Arguments

14.   Applicant's arguments filed 18 February 2008 have been fully considered but they are not persuasive.

Applicant argues that "thus, Figure 1 explicitly contradicts Examiner's assertion by physically separating the messaging system from the database system, consistent with the recitation of the claims". In response to this argument, it is noted that on page

6, lines 16-19, the current specification states: "It should be noted that the message

queue (when persistence is desired) and database would usually exist in the long-term

storage device 14 (or other suitable computer readable medium), but these items have

been shown separately in FIG. 1 for functional clarity". Thus, the example that Applicant

discloses as showing that the messaging system and database system are separate

states, in fact, that the separateness is for "functional clarity" and that "the message

queue and database would usually exist in the long-term storage device".

While applicant cites "further instances of separation", the fact that the

specification does not explicitly disclose separation, and, as cited above, states that the

two systems are displayed separate for "functional clarity", rather than by design,

contradicts Applicant's assertion that the claim limitations do not comprise new matter.

Applicant also argues that "claims 1 and 13 recite "a messaging system" and "a

database system" as separate claim elements". However, as noted above, the claim

limitations read: "providing one or more chosen functions from a messaging system in a

database system", and "wherein the messaging system is separate from the database

system". It is unclear how the messaging system is separate from the database system,

when the claims as originally filed state "providing one or more chosen functions from a

messaging system **in** a database system". Applicant argues that "furthermore, claim 7

recites a 'system' comprising 'a messaging program means' and 'database program

means'. However, claim 7, as originally filed, did not state that the two systems were separate systems.

Applicant argues that "as discussed above, the computer system 1c of Figure 1. includes the messaging system and the database system. One of ordinary skill in the art would understand that the processor 13 provides access or communication between the message queue 11 and the RDMS 15. Moreover, the components are shown to be coupled in communication by the bidirectional arrows. Thus, Applicant submits that the invention as recited in the claims is operable, and thus, the rejections are reversed". In response to this argument, it is noted that separate is defined in The American Heritage College Dictionary, Fourth Edition, as "set or kept apart. Disunited" and "existing as an independent entity". It is unclear exactly how the components can communicate with one another if they are not connected to one another. In addition, as stated above, the database and the messaging system are apparently stored in the same memory. Thus, they are, in fact, not separate. The claims, therefore, are inoperable. As, if the messaging system is not connected to the database system, there is no way to communicate between the two systems.

Conclusion

15.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES D. ADAMS whose telephone number is (571)272-3938. The examiner can normally be reached on 8:30 AM - 5:00 PM, M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. D. A./
Examiner, Art Unit 2164

/Charles Rones/
Supervisory Patent Examiner, Art Unit 2164